IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1365 OF 2004
IN
CRIMINAL APPEAL NO. 397 OF 2004

Mohan S. Narawale .. Applicant

Vs

The State of Maharashtra. .. Respondent

Mr. Vijay Desai for the applicant.

Mrs. V.R. Bhosale, for the respondent-State.

CORAM: S.B. MHASE &
ANOOP V. MOHTA, JJ.

DATED: 03RD DECEMBER, 2004

P.C.:

1. Heard Mr. Desai for the applicant and Mrs. Bhosale, PP, for the respondent.

2. It is a case of the prosecution that there was a scuffle in between the accused and the deceased and the accused gave kicks and blows, as a result of which, pulmonary odema was caused and the deceased died. The doctor was not examined in this case since the Post Mortem Report was accepted. However, since there is no

external injury, it was obligatory for the prosecution to explain as to how the internal injury of pulmonary odema was caused. Under these circumstances, prima facie, what we find is that it is very difficult to hold the Section 302 conviction. It may come to some lesser offence. The applicant was on bail during the trial. By this application, learned counsel is seeking bail.

3. Learned PP for the State Mrs. Bhosale vehemently opposed the grant of bail. However, we are not impressed by the said submissions. In view of the above facts which are reflected in the judgment and notes of evidence produced by the applicant, we are inclined to grant bail.

4. The sentence of the applicant in Sessions Case No.313 of 1993 passed by the Sessions Judge, Greater Bombay is hereby suspended till the final disposal of the Appeal. The accused be released on bail of Rs.15,000/- with two like sureties on P.R. Bond. After release, the applicant shall not change his address viz. Radhekrishna Housing Society, 90 Feet Road, Near Police Chowky, Kurla, Bombay - 400 070, till the final disposal of this Appeal. He shall report to the Saki Naka Police Station once in a week on Sunday in between 10.00 a.m. to 11.00 a.m. He shall not tamper with or threaten any

of the prosecution witness.

5. Bail Application is disposed of accordingly.

[ANOOP V. MOHTA, J.] **[S.B. MHASE, J.]**

[srpasha@hc]